

FILED

GREAT FALLS DIV.

2008 OCT 22 PM 12 37

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

JOSEPH R. MARSHALL,

Petitioner,

vs.

MIKE MAHONEY; ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondents.

No. CV 08-60-GF-SEH

ORDER

On October 1, 2008, United States Magistrate Judge Keith Strong entered Findings and Recommendation in this matter.¹ Petitioner Joseph R. Marshall, proceeding *pro se*, filed objections on October 14, 2008. The Court reviews *de novo* findings and recommendation to which objection is made. 28 U.S.C. § 636(b)(1).

Judge Strong found that: 1) this court is without jurisdiction to consider a second petition under §2254; 2) the petition should be transferred to the United States Court of Appeals for the


¹ Docket No. 4.

Ninth Circuit. Upon *de novo* review of the record, I adopt in full the Findings and Recommendation of Magistrate Judge Strong.

ORDERED:

1. Marshall's second Petition for Writ of Habeas Corpus² is TRANSFERRED to the United States Court of Appeals for the Ninth Circuit.
2. The motion to proceed *in forma pauperis*³ is DENIED AS MOOT.

DATED this 22nd day of October, 2008.


SAM E. HADDON
United States District Judge

² Docket No. 1.

³ Docket No. 2.